

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:	:	CASE NO. 18-61969-rk
	:	
RICHARD L. MCKOWN	:	CHAPTER 13
	:	
Debtor	:	JUDGE RUSS KENDIG
	:	
	:	OBJECTION TO CONFIRMATION OF
	:	CHAPTER 13 PLAN FILED
	:	OCTOBER 16, 2018

Now comes the Creditor Bart W. Hamilton, Treasurer, Richland County, Ohio, and hereby objects to the Confirmation of the Plan of the Debtor filed herein on October 16, 2018 for the following reasons:

PLAN DOES NOT PROVIDE PAYMENT OF SECURED DEBTS - 11 U.S.C. 1325(a)(5)

1. The Chapter 13 Plan of Debtor, in violation of 11 U.S.C. Section 1325(a)(5), fails to adequately provide for the secured claim of the Richland County Treasurer, which holds the first and best lien for delinquent real estate taxes on the real property of the Debtor located at 1815 & 1861 Mt. Zion Road, Mansfield, Ohio, known as Richland County Permanent Parcel Numbers 021-17-014-13-000, 021-17-014-14-000, and 021-17-052-09-000.
2. Creditor has a total secured claim of \$52,639.13 for delinquent real estate taxes on the subject properties. Debtor's Plan fails to provide for full payment of this claim in the Plan.

3. Creditor has no adequate assurance of payment of its claim at this time.

PLAN PAYMENT EXCEEDS INCOME - 11 U.S.C. 1325(a)(6)

4. Debtor's proposed payment exceeds reported income. Debtor reports income of \$2,674.18. Debtor's Schedule I. The Plan proposes \$5,778.07 in monthly payments.

INCONSISTENT/INCORRECT COMMITMENT PERIOD - 11 U.S.C. 1322(d)(2)

5. Debtor's calculated commitment period on Form 122C-1 does not match the proposed Plan. 11 U.S.C. Section 1322(d)(2).

PLAN IS NOT FEASIBLE - 11 U.S.C. 1325(a)(6)

6. In addition to assessed taxes, additional *ad valorem* property taxes will continue to accrue during the pendency of the bankruptcy and perfection of these tax liens are not affected by the automatic stay. 11 U.S.C. 362(b)(18). The Chapter 13 Plan does not provide for the payment of taxes accrued during the pendency of the bankruptcy, therefore these funds would be provided for outside of the plan.
7. Post-petition taxes are considered administrative expenses. 11 U.S.C. 503(b)(1). As an administrative expense, post-petition taxes must be paid in full under the terms of the Plan. 11. U.S.C. 1322(a)(2).
8. Debtor's ability to pay post-petition taxes as they become due is evidence of the debtor's ability to reorganize and/or complete its Plan.
9. An estimate of property taxes based upon 2017 tax rates, would be \$11,697.82 per year. Approximately \$35,093.46 will come due during a 36 month plan.
10. Petitioner reports combined gross monthly income at \$2,674.18 on Schedule I, an annual combined gross monthly income of \$32,090.16.

11. Estimated post-petition property tax payments alone would expend 36% of Petitioners combined gross income, without including payment towards delinquency.

12. Based on proposed income and estimated post-petition taxes, Debtor will be unable to make post-petition property tax payments, which are administrative expenses entitled to priority under 11 U.S.C. 503(b)(1), 11 U.S.C. 507(a)(2), and 11 U.S.C. 1322(a)(2).

PLAN NOT PROPOSED IN GOOD FAITH – 11 U.S.C. 1325(a)(1), 11 U.S.C. 1325(a)(3)

13. Debtor filed the instant action one day prior to scheduled Sheriff sale of subject property in Richland County Common Pleas Case No. 2016 CV 0502 then proposes a Chapter 13 Plan requiring monthly payment 2.16 times greater than monthly income, inconsistent with filed Schedules and applicable bankruptcy law.

This objection shall act as a standing and continuing objection to the currently proposed plan of Debtor and any subsequent plan or plans, which the debtor may file.

/s/Jonathon C. Elgin

Jonathon C. Elgin (0096390)

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Attorney for Creditor Richland County Treasurer

CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2018 a true and accurate copy of the foregoing was served via the court's Electronic Case Filing System on these entities and individuals who are listed on the court's Electronic Mail Notice List:

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